



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

RQ-2

February 11, 2009

Ms. Alma Gonzalez, Treasurer  
Democratic Executive Committee Of Florida  
214 South Bronough Street  
Tallahassee, FL 32301

Response Due Date:  
March 16, 2009

Identification Number: C00005561

Reference: Amended July Monthly Report (6/1/08-6/30/08), received 1/31/09

Dear Treasurer:

This letter is prompted by the Commission's preliminary review of the report(s) referenced above. This notice requests information essential to full public disclosure of your federal election campaign finances. **Failure to adequately respond by the response date noted above could result in an audit or enforcement action.** Additional information is needed for the following 9 items:

1. The totals listed on Lines 11(a)(i) and 11(a)(ii), Column B of the Detailed Summary Page appear to be incorrect. Please be advised that you should add the "Calendar Year-to-Date" total from your previous report to the current "Total This Period" figure from Column A to derive the correct Column B totals. When an individual's aggregate exceeds the \$200 threshold, the amount should not be deducted from the Column B figure for Line 11(a)(ii). Please amend your report and any subsequent reports that may be affected by this correction.
2. The totals listed on Lines 21(a)(i), 21(a)(ii) and 32, Column B of the Detailed Summary Page(s) appear to be incorrect. Please be advised that you should add the "Calendar Year-to-Date" total from your previous report to the current "Total This Period" figure from Column A to derive the correct Column B totals. Please amend your report and any subsequent reports that may be affected by this correction.
3. Your report discloses \$4,811.50 in memo entries on Schedule A supporting Line 12. If these memo entries relate to a transfer for joint fundraising activity, the name of the joint fundraising committee must be included with each memo entry. Please amend your report to clarify these memo entries.

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4. Your Amended May Monthly Report (4/1/08-4/30/08), received 11/10/08; Amended June Monthly Report (5/1/08-5/31/08), received 11/10/08; and Amended July Monthly Report (6/1/08-6/30/08), received 1/31/09, do not disclose any payments for salary or wages on Schedule B supporting Line 30(b) of the Detailed Summary Page. 11 CFR §100.24 defines as Federal Election Activity, services provided by an employee of a State, district or local party committee who spends more than 25 percent of their time during that month on activities in connection with a Federal election. You are advised that payments for salaries and wages for employees who spend more than 25 percent of their compensated time in a given month on Federal Election Activity or activities in connection with a Federal election must be made with Federal funds only. Please provide clarification regarding the lack of payments for salary and wages disclosed by your committee.

5. Schedule H4 supporting Line 21(a) of your report discloses a payment(s) for "Benefits," "Payroll," "Payroll Tax" and "Salary." Please be advised that pursuant to 11 CFR §300.33(c)(2), salaries and wages for employees who spend more than 25% of their compensated time in a given month on Federal election activity (FEA) or activities in connection with a Federal election must not be allocated between or among federal and non-federal accounts. Rather, only federal funds may be used. Further, the Commission concluded in Advisory Opinion 2003-11 that amounts spent for employee-specific "fringe benefits," consisting of health insurance, disability insurance, life insurance, retirement benefits and payroll taxes, fall into the category of compensated time.

Please clarify whether this activity is for employees who spent 25% or less of their time during the month(s) referenced above on FEA or activities in connection with a Federal election. If this is not the case, any reimbursement from your committee's non-federal account for this payment is not permissible and must be returned. Although the Commission may take further legal action regarding any improper allocation activity, your prompt action will be taken into consideration.

6. Schedule H4 discloses a disbursement(s) which is categorized as a fundraising expense(s); however, a Schedule H2 has not been filed to disclose the allocation ratio. All committees are required to allocate the direct costs of each fundraising event in which the committee collects both federal and non-federal funds. The costs are allocated according to the funds received ratio and reported on Schedule H2. 11 CFR §§106.6(d) and 106.7(d)(4). Please file a Schedule H2 to disclose the ratio for the fundraising event(s).

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7. Schedule H4 of your report discloses \$1,500 in payments for "Political Consulting" to individuals. Please clarify whether these individuals are employees of your committee. If they are employees, please clarify whether this activity is for employees who spent 25% or less of their time during the month(s) referenced above on Federal election activity (FEA) or activities in connection with a Federal election. You are advised that pursuant to 11 CFR §300.33(c)(2), salaries and wages for employees who spend more than 25% of their compensated time in a given month on FEA or activities in connection with a Federal election must not be allocated between or among federal, non-federal and Levin accounts. Rather, only federal funds may be used.

Any reimbursement from your committee's non-federal or Levin account for salary and wage payments for employees who spent more than 25% of their compensated time in a given month on FEA is not permissible and must be returned. Please provide clarification regarding these payments.

8. Schedule H4 supporting Line 21(a) of your report discloses a payment(s) for "Communications," "Printing," "Printing/Graphics," "Telephone/Communications" and "Telephone Calls." Please be advised that pursuant to 11 CFR §300.33(c)(1), expenditures for public communications (as defined by 11 CFR §100.26) that refer to a clearly identified candidate for Federal office and that promote, support, attack or oppose any such candidate for Federal office must not be allocated between or among federal and non-federal accounts. Only federal funds may be used.

Further, expenditures and disbursements for public communications that refer to a clearly identified candidate for Federal office and that promote, support, attack or oppose any candidate for Federal office, meet the definition of Federal Election Activity under 11 CFR §100.24 and should be disclosed on Schedule B for Line 30(b) along with the identity of the candidate(s). However, public communications that meet the definition of Federal Election Activity and that also contain express advocacy as defined under 11 CFR §100.22, but do not meet the conditions of exempt activity, would constitute an in-kind contribution, an independent expenditure or a coordinated party expenditure and should be properly disclosed on a Schedule B, E or F supporting Lines 23, 24 or 25, as appropriate, rather than on Schedule B for Line 30(b). Please amend your report to properly disclose this activity or provide clarifying information.

If this activity was categorized incorrectly, the Commission recommends that you immediately transfer the funds received by your federal account for this activity back to the non-federal account. Although the Commission

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may take further legal action concerning this prohibited activity, your prompt action will be taken into consideration.

9. Your report disclosed a category of financial activity that has been reflected on the wrong line of the Detailed Summary Page. Contributions received from federal candidate committees should be properly disclosed on a separate Schedule A, supporting Line 11(c) of the Detailed Summary Page. Please refer to the instructions for each line when determining the proper categorization(s) for your next filing.

**Please note, you will not receive an additional notice from the Commission on this matter.** Adequate responses must be received by the Commission on or before the due date noted above to be taken into consideration in determining whether audit action will be initiated. Failure to comply with the provisions of the Act may also result in an enforcement action against the committee. Any response submitted by your committee will be placed on the public record and will be considered by the Commission prior to taking enforcement action. **Requests for extensions of time in which to respond will not be considered.**

Electronic filers must file amendments (to include statements, designations and reports) in an electronic format and must submit an amended report in its entirety, rather than just those portions of the report that are being amended. If you should have any questions regarding this matter or wish to verify the adequacy of your response, please contact me on our toll-free number (800) 424-9530 (at the prompt press 5 to reach the Reports Analysis Division) or my local number (202) 694-1393.

Sincerely,

*Debbie Chacona*

For: Sylvette S. Garnes  
Campaign Finance Analyst  
Reports Analysis Division

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